



**STATE OF TENNESSEE  
DEPARTMENT OF ENVIRONMENT AND CONSERVATION**

**Division of Solid Waste Management  
Standard Operating Procedure**

**Permit-By-Rule**

**August, 2001**

Approved:

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Date

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John Leonard, Assistant Commissioner  
Tennessee Department of Environment and Conservation

\_\_\_\_\_  
Date

This SOP is an intra-departmental document intended to govern the internal management of the Department of Environment and Conservation. It is intended to provide guidance to Department staff so that laws and rules we implement can be applied consistently. It is not intended to affect rights, privileges, or procedures available to the public.

**DIVISION OF SOLID WASTE MANAGEMENT  
STANDARD OPERATING PROCEDURES FOR PERMIT-BY-RULE  
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## **SECTION 1: INTRODUCTION**

The purpose of this Standard Operating Procedure guide is to provide a consolidated reference document for use in training and orientation of employees. This guide will also be a useful reference tool for more experienced employees. The SOP identifies the technical information and application requirements for obtaining a Solid Waste Management permit-by-rule. This SOP will delineate all steps in the process, including responsible personnel, and approximate process milestones. Additional information includes statute and rule authorization, a process flow chart, and supporting documentation (when necessary). This SOP is only intended to describe routine conditions normally encountered with the permit-by-rule process. Additional processes and/or irregular conditions that could be involved with obtaining a permit-by-rule will be considered independently of this SOP.

Permit-by-Rule authorization is an administrative, less technical permit and is not subject to public hearing. Specifically, such authorization is limited to solid waste processing facilities, coal ash fills, county convenience centers, tire storage facilities and transfer stations. This authorization is limited to activities that have less impact on health and environment and includes the following:

1. Baling
2. Composting
3. Convenience Center
4. Incineration
5. Mulching
6. Recycle Center
7. Soil Remediation
8. Tire Processor/Storage
9. Transfer Station
10. Tub Grinder
11. Waste Food Processor

## **SECTION 2: STATUTORY AND REGULATORY AUTHORITY FOR PROCESS**

### **2.1 Tennessee Statutory Authority**

- T.C.A. Section 68-25-115(c)
- T.C.A. 68-211-106(a)(1)
- T.C.A. 68-211-106(a)(2)

### **2.2 Tennessee Regulatory Authority**

- Rule 1200-1-7-.02(1)(c)
- Rule 1200-1-7-.03
- Rule 1200-1-7-.07
- Rule 1200-1-7-.10

### **2.3 Federal Statutory Authority**

Not Applicable

### **2.4 Federal Regulatory Authority**

Not Applicable

### **2.5 Applicable Division Policy**

Not Applicable

### **SECTION 3: DEFINITION OF TERMS**

**Coal Ash Fill** – A fill area of non-hazardous coal ash in compliance with rule 1200-1-7-.02(1)(c)1(ii). Coal ash may be fly ash, bottom ash, or boiler slag resulting primarily from the combustion of fossil fuel.

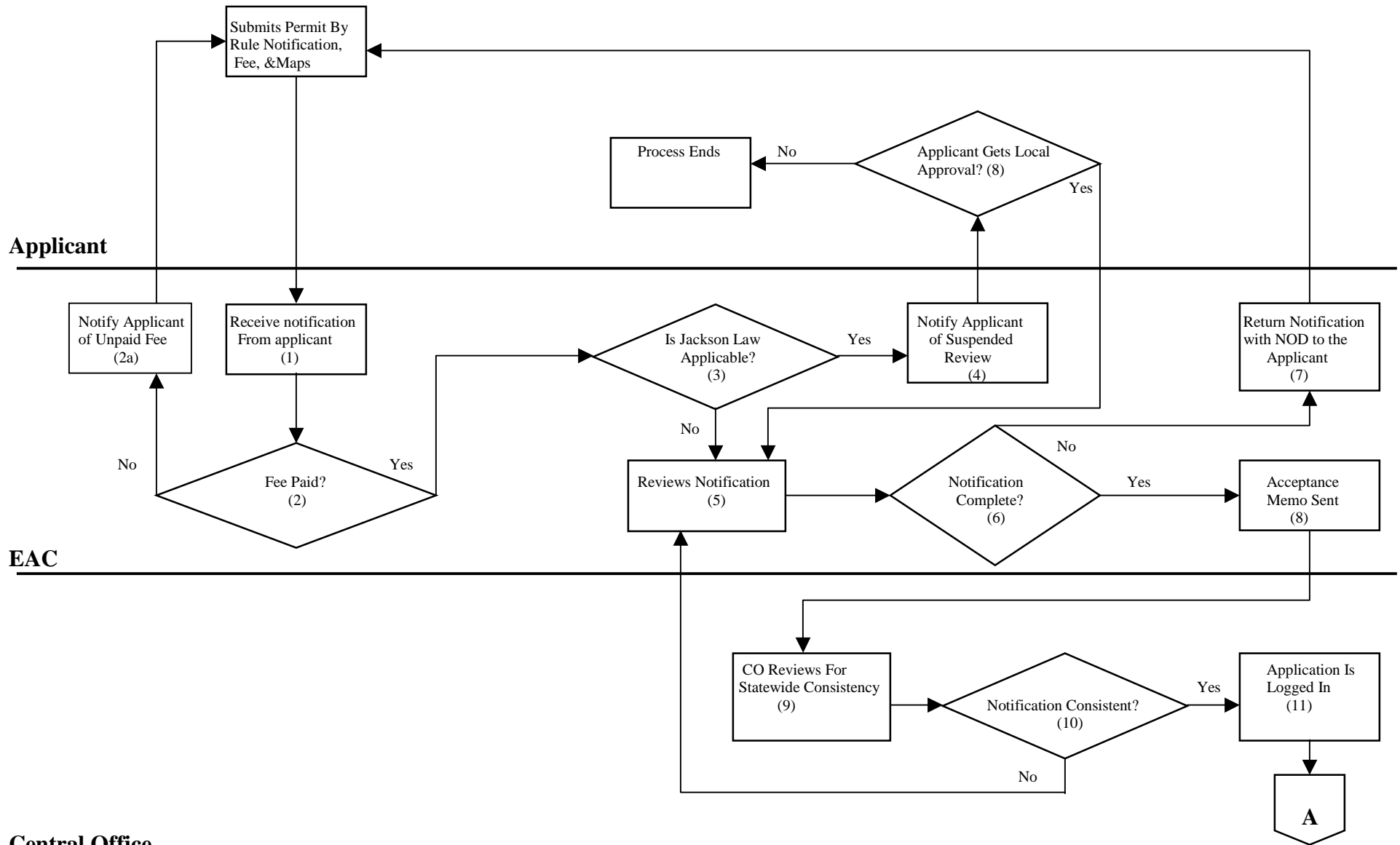
**County Convenience Centers** – Any area which is staffed and fenced that has waste receptacles on site that are open to the public, when an attendant is present, to receive household waste, municipal solid waste and recyclable materials.

**Solid Waste Processing** – Any process that modifies the characteristics or properties of solid waste of solid waste, including but not limited to treatment, incineration, composting, separation, grinding, shredding, and volume reduction provided, that it does not include the grinding or shredding of landscaping or land clearing wastes or unpainted, unstained, and untreated wood into mulch or other useful products.

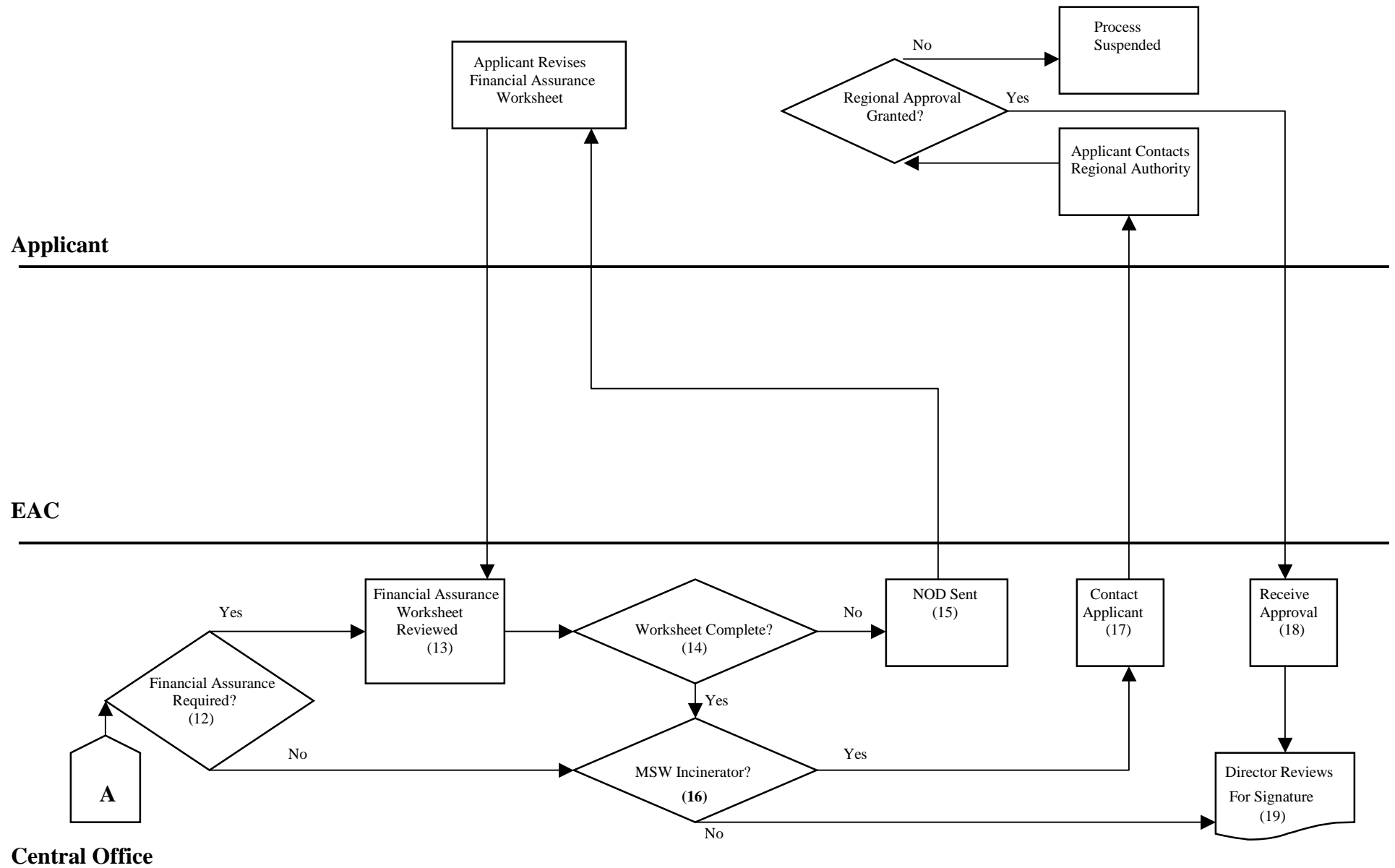
**Tire Storage Facilities** – A Class I or Class IV facility accepting waste tires for disposal as prescribed by rule 1200-1-7-.02(1)(c)1(iii).

**Transfer Station** – A combination of structures, machinery or devices at a place or facility which receives solid waste taken from municipal and private collection vehicles and which is placed in other transportation units for movement to another solid waste management facility.

## Section 4: Permit-By-Rule Flow Diagram



# PBR Flow Diagram (Continued)



## SECTION 5: PERMIT-BY-RULE PROCEDURES

Step	Responsible Person	Activity	Time
1	EAC Permitting Staff	Receive notification from applicant. Note: Send application materials ( <b>Appendix B, p.35; Appendix C, pp. 38-42; Appendix D, p. 44</b> ) to inquiring applicant and advise them of the Jackson Law.	4 Hrs
2	EAC Permitting Staff	Determine if permit-by-rule fee has been sent to fiscal services. If no, go to step (2a). If yes, go to step (3).	1 Hr
2a	EAC Permitting Staff	Contact applicant to submit fee.	1 Hr
3	EAC Permitting Staff	Review for Jackson Law applicability ( <b>Appendix A, pp. 30-33</b> ). Jackson Law applicable go to step (4). Jackson Law not applicable go to step (5).	1 Hr
4	EAC Permitting Staff	Notify applicant of suspended review.	1 Hr
5	EAC Permitting Staff	Review application (notification) form and attachments for adequacy and completeness ( <b>Appendix A, pp. 15-29</b> ).	3 Days
6	EAC Permitting Staff	Completeness Determination. If incomplete go to step (7). If complete go to step (8).	1 Hr
7	EAC Permitting Staff	If incomplete, send notice of deficiency to applicant.	3 Hrs
8	EAC Permitting Staff	If complete send acceptance memo to central office staff.	1 Hr
9	Central Office Staff	Conduct quality assurance review for statewide consistency. If a problem is identified, it may be returned to EAC to be addressed by staff or applicant.	2 Hrs
10	Central Office Staff	Notification consistent? If yes, go to (11). If no, go to step (5) and repeat process.	2 Hrs
11	Central Office Staff	Application is logged in at the Central Office.	.5 Hr
12	Central Office Staff	Is financial assurance required? If yes, go to step (13). If no, go to step (15).	2 Hrs
13	Central Office Staff	The financial assurance worksheet is reviewed by permit administration and/or the financial assurance officer.	2 Hrs
14	Central Office Staff	If financial assurance worksheet is deficient go to step (15). If the worksheet is complete go to step (16).	.25 Hr



15	Central Office Staff	Notify applicant of deficiencies for revision. Date of completed application entered into Central Office Permitting Log.	1 Day
16	Central Office Staff	If MSW Incinerator, go to step (17). If no, go to step (19).	.25 Hr
17	Central Office Staff	Contact Applicant For Regional Authority Approval.	1 Hr
18	Central Office Staff	Regional Authority approval is received by central office.	1 Hr
19	Central Office Staff	Draft authorization letter is prepared for director's review and signature ( <b>Appendix B, p. 36</b> ).	2 Hrs

Total Time less than 90 days.

## **SECTION 6: PERSONNEL QUALIFICATIONS**

The following personnel classifications (as established by the Department of Personnel) may be involved in the facility permitting process. They are:

1. Environmental Specialists.
2. Environmental Protection Specialists.
3. Geologists.

New employees are given on the job training to perform the permit-by-rule process. There are no specific training courses required for the process.

## **SECTION 7: COMPUTER HARDWARE AND SOFTWARE**

The Division of Solid Waste Management currently uses computer hardware as supplied by the Division of Information Systems. Each computer is supplied as needed with:

1. Microsoft Word 2000
2. Microsoft Excel
3. Microsoft Access

## **SECTION 8: DATA AND RECORDS MANAGEMENT**

All data and records are kept at the Environmental Assistance Center where the facility is located with copies kept at the Nashville Central Office. Data and records are managed by controlled file room conditions in the following way:

1. The files are kept locked at all times.
2. A file room attendant controls those who enter and logs out files including Division or other state agency staff.
3. Files that are reviewed by the public are managed under the following guidelines to insure proper security, i.e prevent theft or damage:
  - a. Public records are available for review during the normal business hours from 8:00 a.m. until 4:30 p.m., Monday through Friday, except holidays.
  - b. The number of files reviewed at one time may be limited without authorization from the Division Manager or Environmental Assistance Center Administrative Manager.
  - c. Briefcases and other accessories (with the exception of writing materials – notepads, pencils, etc.) are not allowed in the file area.
  - d. Do not mark on the file(s) or change the order of documents within the file(s).
  - e. Routine copies are charged at the rate of 10 cents per page. Non-routine copies are charged at the rate of 40 cents per page. Non-routine electronic copies are charged at the rate of \$6.00 per floppy disk and \$10.00 per CD disk. There may be additional charges to recover the cost for odd size, or otherwise difficult to handle copies. All charges are payable in advance by exact cash or check only.
  - f. Tags will be provided to mark any pages for staff to copy.
  - g. Staff will make copies as their work schedule permits. It may be necessary to return for the copies, or they may be mailed upon request.

## **SECTION 9: REFERENCES**

The following documents are used in the permit-by-rule process.

1. Tennessee Solid Waste Processing and Disposal Regulations (as published by the Secretary of State)
2. Solid Waste Policy and Guidance Manual (updated annually)

# APPENDIX A:

## POLICIES

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## Regulation of Transfer Stations

Recent changes in the Solid Waste Program regulations added a new permit-by-rule category for transfer stations at rule 1200-1-7.02(1)(c)1(v) with corresponding fee language at rule 1200-1-7-.07, paragraphs (2) and (3).

A transfer station is defined as a combination of structures, machinery or devices at a place or facility which receives solid waste taken from municipal and private collection vehicles and which is placed in other transportation units for movement to another solid waste management facility. The Division of Solid Waste Management (DSWM) will now register all facilities that meet the definition of a transfer station, regardless of the type of loading method. **ALL TRANSFER STATIONS WILL BE CHARGED AN APPLICATION FEE OF \$500 AND A MAINTENANCE FEE OF \$1000/YEAR.**

In order to be registered as a transfer station, some type of fixed location (i.e. facility) with “structures, machinery, or devices” must exist. It is not the intent of DSWM to regulate those types of waste collections which use smaller collection vehicles to deliver wastes to a larger collection vehicle. Such operations do not use a fixed location for the transfer, nor would they be likely to have “structures, machinery, or devices” at those sites.

DSWM has encountered some waste collection operations which utilized trailers temporarily parked in areas that are unfenced and unattended. Such an operation is not a transfer station as defined by DSWM. Facilities consisting of trailers which have received waste collected from off-site and left unattended may, if warranted, be cited for disposal. If such trailers contain medical waste, State law defines this as a criminal violation under certain circumstances (T.C.A. §55-8-162).

**Permit-By-Rule Issue for Convenience Centers  
(After the Minimum Number Per County is Achieved)**

The above issue has been raised and clarification requested. Specifically, after a county has sited the minimum number of convenience centers (calculated by population or by square miles per Rule 1200-1-7-.10(2)(b)1(ii)), what standards are applicable to any additionally sited convenience centers? Does each additionally sited center have to meet convenience center standards? Are the additional facilities subject to permit-by-rule?

In response, if a county wants to site additional convenience centers beyond its minimum standard, each additional siting would be subject to the permit-by-rule requirements at Rule 1200-1-7-.02(1)(c)1(iv) for convenience centers. No fee would be due as provided at Rule 1200-1-7-.07(1)(b)7. The above would be true for facilities that meet the definition of convenience centers.

If facilities for collection were sited but do not meet the definition of convenience center, then convenience center standards would not be applicable. Each facility should then be evaluated to see if it is a solid waste processing facility (i.e. compacting) subject to permit-by-rule and subject to applicable fees for processing.

If the collection centers are not convenience centers and are not processing (such as compacting), there would be no permitting and no fees.



## **Treatment of Petroleum Contaminated Soils**

### Introduction:

The following technical guidance is to be used by DSWM personnel in evaluating permit-by-rule notification for the treatment of petroleum contaminated soil. Since permit-by-rule authorization is for an indefinite period, all proposed treatment facilities must be reviewed as if they were permanent installations.

### General:

A petroleum contaminated soils treatment facility (corporation) requires a permit-by-rule whenever soil from underground storage tanks (UST) is treated “off site”, including:

1. UST contaminated soil treated on a site owned by a third party.
2. UST contaminated soil brought from out-of-state to be treated in Tennessee.

A permit-by-rule is also required whenever petroleum contaminated soils from a source other than a UST cleanup are treated off site.

Although the Division has received notifications from a number of commercial treatment operations, a permit-by-rule can be issued for off site treatment of soils from a single source.

### Notification Requirements:

The following minimum criteria are to be included in any notification package for a soil treatment facility in addition to a full discussion of the standard conditions found in Rule 1200-1-7-.02(1):

1. Storage:

Petroleum contaminated soil is to be stored:

- on an impermeable surface,
- contained within an eighteen (18) inch high berm,
- covered to protect from precipitation.

2. Treatment:

Three methods are currently used to treat petroleum contaminated soils. The applicant must fully describe the proposed treatment process.

A. Thermal:

- soil is introduced into a rotary kiln for 3-4 minutes at a temperature of 400-600 degrees Fahrenheit, at which temperature contaminants are vaporized,
- the vaporized contaminants are burned in an afterburner at a temperature of 1400-1600 degrees Fahrenheit.

B. Aeration:

- soils to be decontaminated are spread over an impermeable surface,
- the soil is totally enclosed by a berm to prevent storm water run-off and run-on,
- soil is to be spread to a depth of not more than two (2) feet,
- the remediation are is to be equipped with a leachate system.

C. Bioremediation:

- This procedure uses microorganisms (bacterial & fungi) to accelerate the degradation of wastes, and especially organic compounds.
- the site layout should be identical to the aeration process except the depth of soil may be greater in that contaminated soil is often placed on top of existing soils. Some type of impermeable layer is still required.
- nutrients, oxygen, and microorganisms are introduced and allowed to percolate down into the soil. (NOTE: A permit-by-rule is not required for on-site treatment.)

3. Sampling/Testing:/Records

For incoming (non-treated) UST soils, records of analytical data must be kept by the facility and made available to Division staff during inspection.

UST soils, which treatment is reviewed and approved (by Div. of UST) and qualify for the permit exemption at Rule 1200-1-7-.02(1)(b)2(xiv), do not require special waste approval.

Incoming (non-treated) soil from non-UST or out-of-state contaminated soils require Special Waste approval including analytical data and fees.

After treatment, the soil is to be sampled by the facility operator to determine if:

- it contains less than ten (10) ppm of benzene, toluene, and xylene (BTX) and less than one hundred (100) ppm total petroleum hydrocarbons (TPH).
- sampling points will be evenly distributed throughout the entire volume of soil.
- sampling points will be retrieved from sufficient depth in the soil piles to insure the collection of fresh samples.
- field sampling results determine which samples contain the highest levels of contamination, and
- these are to be submitted for laboratory analysis in accordance with the table below:

Volume of treated soil (Cubic Yards)	Number of samples or lab analysis
0 - 60	1
60 - 240	2
240 - 480	3
480 - 720	4

NOTE: For each additional 240 cubic yards of material, take an additional sample.

- submit results of the laboratory analysis to the Division identifying the sampling points.
- based on the results the Division will make a determination concerning the ultimate disposition of the soils.

The Permit-by-Rule facility will keep records showing soil disposition and location.

NOTE: Treated UST soil qualifying for the permit exemption at Rule 1200-1-7-.02(1)(b)2(xiv) is exempt from any further permit requirements or special waste requirements and may be used for:

- fill material
- landfill material

## **Petroleum Contaminated Soils**

To ensure the uniform handling of the petroleum contaminated soils, the following procedures will be followed:

1. A special waste approval is not required on soils from a UST project that is authorized in the processing facility permit. Acceptable waste streams should be described in this facility notification package and finally approved by the DSWM when satisfactory. Documentation of the source of contaminated soils is required.
2. Treated UST soils may be evaluated for the regulatory exemption for use as fill material as provided at Rule 1200-1-7-.02(1)(b)2(xiv).
3. Other contaminated soils must be specifically authorized in the permit or may be evaluated as a special waste. Contaminated soils from outside Tennessee must be evaluated as a special waste.
4. Pretreatment samples are required to characterize the waste.
5. After treatment, the soils may be considered for landfill disposal or, as appropriate, it may be evaluated for the exemption at Rule 1200-1-7-.02(1)(b)2(xiv).

## **Waste Stabilization at Class I Landfill**

### **A. Design and Operating Criteria**

The following information or design criteria must be included in the Permit-By-Rule application:

1. Primary (mixing) vessel design.
  - a. watertight construction
  - b. covered (e.g. as a roof)
  - c. meets safety standards for an open pit as applicable
  - d. leak detection capability
  - e. leak containment - such that any leaks are contained within the detection system, but not necessarily full secondary containment
  - f. use of a flexible membrane liner must conform to Rule .04(4)
2. Characterization of bulking agents and pozzolanic agents
  - a. description
  - b. analytic data as applicable
3. Provisions for maintenance testing (leak testing)
4. Provisions for Containment of Washdown Water or Spills (may be within primary vessel)
5. Provisions for Management / Screening of Obnoxious (odorous) Wastestreams
6. Provisions for testing of wastes after processing

### **B. Wastestream Approval (Special Waste Approval)**

The following minimum requirements for special waste approval must be incorporated into the Permit-By-Rule application:

1. Each wastestream (but not each shipment) must obtain a special waste approval which provides for disposal only in the associated Class I Landfill
2. The 50 mile limitation remains in effect for out-of-state wastestreams
3. The special waste application must include a description of those parameters which will be checked upon receipt of the wastestream

### **C. Recordkeeping**

The following minimum recordkeeping requirements must be incorporated into the Permit-By-Rule application:

1. Each load must be accompanied by a certification that the load is not a RCRA hazardous waste (may be part of a special waste manifest or similar paperwork).
2. Records on the waste profile tests performed after receipt of the waste, but prior to treatment, must be kept.
3. Records on the treated waste (e.g. paint filter test) must be kept.
4. Records must be kept at the landfill facility or the processing facility or at another location approved by the Department.

## **SOLID WASTE PERMIT-BY-RULE CONDITIONS**

### **Rule 1200-1-7-.02 PERMITTING OF SOLID WASTE STORAGE, PROCESSING AND DISPOSAL FACILITIES**

#### **Section 1, part C, Permit-By-Rule**

A solid waste processing facility shall be deemed to have a Permit-By-Rule if the following conditions listed are met:

- (I) The operator complies with the notification requirement of part 2 of this subparagraph;
- (II) The facility is constructed, operated, maintained, and closed in such a manner as to minimize:
  - I. The propagation, harborage, or attraction of flies, rodents, or other disease vectors;
  - II. The potential for explosions or uncontrolled fires;
  - III. The potential for releases of solid wastes or solid waste constituents to the environment except in a manner authorized by State and local air pollution control, water pollution control, and/or waste management agencies; and
  - IV. The potential for harm to the public through unauthorized or uncontrolled access;
- (III) The facility has an artificial or natural barrier which completely surrounds the facility and a means to control entry, at all times, through the gate or other entrances to the facility;
- (IV) The facility, if open to the public, has clearly visible and legible signs at the points of public access which indicate the hours of operation, the general types of waste materials that either will or will not be accepted, emergency telephone numbers, schedule of charges (if applicable), and other necessary information;
- (V) Trained personnel are always present during operating hours to operate the facility;
- (VI) The facility has adequate sanitary facilities, emergency communications (e.g., telephone), and shelter available for personnel;
- (VII) The facility's access road(s) and parking area(s) are constructed so as to be accessible in all weather conditions;
- (VIII) Except for composting facilities utilizing landscaping and land clearing wastes only, all waste handling (including loading and unloading) at the facility is conducted on paved surfaces;

- (IX) There is no storage of solid wastes at the facility except in the containers, bins, lined pits or on paved surfaces, designated for such storage;
- (X) Except for incinerators or energy recovery units, there is no burning of solid wastes at the facility;
- (XI) There is no scavenging of solid wastes at the facility and any salvaging is conducted at safe, designated areas and times;
- (XII) Wind dispersal of solid wastes at or from the facility is adequately controlled, including the daily collection and proper disposal of windblown litter and other loose, unconfined solid wastes;
- (XIII) All liquids which either drain from solid wastes or are created by washdown of equipment at the facility go to either (1) a wastewater treatment facility permitted to receive such wastewaters under Tennessee Code Annotated Sections 69-3-101 et seq. (Tennessee Water Quality Control Act), or (2) other methods approved by the Commissioner;
- (XIV) The facility receives no special wastes unless:
  - I. Such receipt has been specifically approved in writing by the Department, and
  - II. Special procedures and/or equipment are utilized to adequately confine and segregate the special wastes;
- (XV) The operator can demonstrate, at the request of the Commissioner, that alternative arrangements (e.g., contracts with other facilities) for the proper processing or disposal of the solid wastes his facility handles are available in the event his facility cannot operate;
- (XVI) The facility has properly maintained and located fire suppression equipment (e.g., fire extinguishers, water hoses) continuously available in sufficient quantities to control accidental fires that may occur;
- (XVII) All waste residues resulting from processing activities at the facility are managed in accordance with this rule chapter or rule chapter 1200-1-11 (Hazardous Waste Management), whichever is applicable, and/or with any other applicable state or federal regulations governing waste management;
- (XVIII) The facility is finally closed by removal of all solid wastes and solid waste residues for proper disposal. The operator must notify the Division Director in writing of his completion of closure of the facility. Such notification must include a certification by the operator that the facility has been closed by removal of all the solid waste and residues. Within 21 days of the receipt of such notice the Division Director shall inspect the facility to verify that closure has been completed. Within 10 days of such verification, the



Commissioner shall approve the closure in writing to the operator. Closure shall not be considered final and complete until such approval has been made.

- (XIX) New solid waste processing facilities shall not be located in wetlands, unless the owner or operator makes the applicable demonstrations to the Commissioner as referenced at rule 1200-1-7-.04(2)(p).
- (XX) The facility must not be located in a 100-year floodplain unless it is demonstrated to the satisfaction of the Commissioner that:
  - I. Location in the floodplain will not restrict the flow of the 100-year flood nor reduce the temporary water storage capacity of the floodplain.
  - II. The facility is designed, constructed, operated, and maintained to prevent washout of any solid waste.
- (XXI) The facility does not:
  - I. Cause or contribute to the taking of any endangered or threatened species of plants, fish, or wildlife; or
  - II. Result in the destruction or adverse modification of the critical habitat of endangered or threatened species.
- (XXII) The owner/operator may not store solid waste until the processing equipment has been installed on-site and is ready for use.
- (XXIII) The owner/operator of a solid waste processing facility which has a solid waste storage capacity of 1000 cubic yards or greater shall file with the Commissioner a performance bond or equivalent cash or securities, payable to the State of Tennessee. Such financial assurance is intended to ensure that adequate financial resources are available to the Commissioner to insure the proper operation, closure, and post closure care of the facility. The types of financial assurance instruments and the amount of financial assurance required shall be in a form acceptable to the Commissioner. Such financial assurance shall meet the criteria set forth in T.C.A §68-211-116(a).

## **DESIGN AND OPERATION STANDARDS FOR CONVENIENCE CENTERS**

- (a) Access - The facility shall restrict unauthorized access by means of fencing with the ability to secure access points. Operating hours shall be posted at the facility
- (b) Dust and Mud Control - In order to prevent the creation of a nuisance or safety hazard all surfaces utilized for access and general operation shall be paved (includes compacted stone).
- (c) Run-on and Run-off Control
  - 1. In order to prevent operational hazards all run-on surface water shall be diverted around the facility.
  - 2. In order to prevent ponding of water, the surface of the facility shall be graded to assure proper run-off control. All run-off shall be diverted to an area that can be controlled with reference to release from the property. The release area shall be properly graded and stabilized to prevent erosion or other damage to adjoining properties. Release of solids in the run-off must be controlled.
- (d) Fire safety - The facility must have on-site, properly maintained, fire suppression equipment. Arrangements must be made with the nearest available fire protection agency to provide additional protection.
- (e) Communication - There shall be maintained during operating hours on-site equipment capable of notifying the appropriate authorities of an emergency, unless it is demonstrated to the Commissioner's satisfaction that such requirement would be unreasonable hardship at the convenience center location.
- (f) Personnel facilities
  - 1. In order to provide shelter during inclement weather and store necessary records and supplies a suitable structure shall be provided on-site.
  - 2. Sanitary facilities shall be provided.
- (g) Water - Service water should be provided to the facility if equipment and/or the facility management requires such water for maintenance.
- (h) Process water - If mechanical compaction is utilized all liquid generated by this equipment shall be collected and properly managed.
- (i) Waste Handling
  - 1. Recycled material shall be placed in separate receiving containers;

2. All waste handling (including loading and unloading) shall be conducted on paved surfaces;
  3. There is no storage of solid waste at the facility except in containers, bins, or on paved surface designed for such storage;
  4. All litter shall be collected at the beginning and end of each working day. Incidents of illegal dumping shall be referred to local authorities and addresses in the annual revision of the solid waste plan.
- (j) Facility supervision - Trained personnel must always be present during operating hours. Training will be established as per T.C.A. 68-211-853.
- (k) Siting restrictions
1. The facility must not be located in a wetland, unless the owner or operator makes the applicable demonstrations to the Commissioner and referenced at Rule 1200-1-7-.04(2)(p).
  2. The facility must not be located in a 100 year floodplain, unless the demonstration is made to the Commissioner as required at Rule 1200-1-7-.04(2)(n).
  3. The facility must not cause or contribute to the taking of any endangered or threatened species or plants, fish or wildlife; or result in the destruction or adverse modification of a critical habitat.
  4. New convenience centers must not be located within fifty (50) feet of stream. In order to protect these, the area within fifty feet must have a stable vegetation cover.
- (l) The facility shall not receive special waste unless approval is received from the Department in writing. Approval will require the construction of special containment areas.
- (m) The facility shall not receive medical waste.

## **Tire Disposal Conditions**

### **Rule 1200-1-7-.04 SPECIFIC REQUIREMENTS.**

#### **Subpart .04(2)(k)3(i), Waste Restrictions**

Tires shall be managed as follows:

#### **3. Discarded Tires**

- (i) No landfill shall accept for disposal any whole tires. Tires received at class I, class II, class III and class IV disposal facilities shall be managed as follows:
  - (I) Tires may be disposed of in the same manner as other waste after they have been shredded, chipped, chopped, sliced, or have been otherwise processed and are rendered not whole to effectively prevent floating.
  - (II) Whole tires or shredded, chipped, chopped or circumferentially sliced tires may be stored on site provided that the tire storage areas conform with the following standards:
    - I. The storage area shall be surrounded by an 18 inch high earthen berm to manage run-on and run-off and be sufficient to contain water in the event of a fire, and to provide that:
      - A. All surface run-off is directed around the site;
      - B. All rain water collected within the berm must be directed to an appropriate release point; and
      - C. All fire control water can be contained until release is approved.
    - II. Tire piles shall be restricted to the following dimensions - 200 feet long, 50 feet wide, and 15 feet high. Whole tires shall be covered by a material sufficient to shield the tires from precipitation or an effective insect vector and rodent control program shall be established.
    - III. A buffer zone of at least 50 feet wide shall separate tire piles from each other and from active disposal areas.
    - IV. In order to reduce the risk of fires;

- A. The storage areas and the buffer zone shall be kept free of brush and high grass;
  - B. No flammable liquids may be stored nor may equipment with an open flame be utilized in or within 50 feet of the storage area;
  - C. Communication equipment, capable of immediately notifying the responding fire department, shall be maintained; and
  - D. A letter assuring response from the responding fire district must be filed with the Division and the telephone number of the responding fire district must be posted at the facility. If service is not available specific fire control measures must be specified by letter to the Division.
- V. The storage area may not be located:
- A. On an active disposal area;
  - B. On a closed disposal area, unless no remaining area is available and remedial closure is specified in writing to the Division;
  - C. On an area to be utilized for disposal within one year;
  - D. In the 100 year floodplain, unless the demonstration is made to the Commissioner as required at Rule 1200-1-7-.04(2)(n); and
  - E. In wetlands, unless the demonstration is made to the Commissioner as required at Rule 1200-1-7-.04(2)(p).
- VI. Tires or shredded tires may not be stored for more than one (1) year without the written approval of the Division. The operator shall maintain records sufficient to establish the date each tire pile within a storage area was begun.

## **Applicability of the “Jackson Law”**

Because the Department continues to be bombarded with questions about when the Jackson Law applies, our office wants to set out some guidelines. Please understand that not every situation can be anticipated and slight factual changes may also cause a change in applicability. Each situation should be carefully reviewed as it arises. Thus, the following is offered as guidance only.

The “Jackson Law” T.C.A. § 68-211-701 et seq. and T.C.A. § 68-211-105(h) became law on June 2, 1989. The law provides that “the Commissioner shall not review...any construction for any new landfill...or for solid waste processing in any county or municipality which has adopted the provisions of §§ 68-211-701 - 705 and § 68-211-707 until such construction has been approved in accordance with the provisions of such sections.

The Department has taken the following positions:

1. The Jackson Law applies to “new” landfills and “new” solid waste processing facilities.
2. The Jackson Law does not apply to landfills or solid waste processing facilities that existed on June 2, 1989. A “new” landfill or a “new” solid waste processing facility is one which did not exist on the date the Jackson bill became law (June 2, 1989). A landfill “exists”, for purposes of the Jackson Law, once a tentative decision to issue a permit has been made by the Department.
3. If a facility is an existing facility (one that existed on June 2, 1989), the Jackson Law does not apply to expansion of that facility. A plain reading of the statute as well as legislative history supports the position that existing facilities are forever excluded from applicability of the Jackson Law. Representative Jackson was clear on this point. On May 2, 1989, Representative Jackson made the following statements to the House Committee for state and local government:

“The bill would also apply only to new sanitary landfills. It does not affect an existing landfill in your district. If they want to expand it, they can. The bill does not apply in that situation.”

Later Jackson added:

“Mr. Chairman, what reduced the fiscal note was taking out involvement of expansion of existing sites by applying the bill only to new landfills, the creation of brand new landfills, that reduced the fiscal note substantially.”

4. The Jackson Law applies to modification of a “new” landfill that involves “new construction”. However, the Jackson Law does not apply to a modification of a “new” landfill that does not involve “new construction”. In the Sanifill, Marshall County case the Department took the position that whenever a “new” landfill

attempted to modify its permit the Jackson Law applied. The court of Appeals rejected this contention, but it indicated that the Jackson Law would be triggered if the modification involves “new construction”. The court defined construction as follows:

This Court construes the word, “construction” as used in the statute to be all of the site preparation required by law and regulation, prior to the beginning of actual receipt and processing of waste. This “construction” took place before the first waste was placed in the subject landfill. There is no evidence or other indication that Sanifill proposes, plans or seeks approval of any enlargement or modification of the existing approved landfill.

The Department did not appeal this portion of the court’s decision and is bound by it. Once a landfill is permitted, the Jackson Law only applies to modifications that involve “enlargement”. Thus, the Jackson Law should be applied to lateral expansions of “new” landfills. Such modifications would clearly involve construction as defined by the court. On the other hand, a vertical extension of a “new” landfill would not involve construction as defined by the Court.

## **Local Government Approval**

### **PROFILL JACKSON LAW**

In 1989, the General Assembly enacted Tenn. Code Ann. § 68-211-701, *et seq.* (“Part 7” or “The Jackson Law”), which gives local governing bodies the legislative power to approve or disapprove of the construction of any “new” solid waste facility.

1. The Jackson Law applies to “new” landfills and “new” solid waste processing facilities.
2. The Jackson Law does not apply to landfills or solid waste processing facilities that existed on June 2, 1989. A “new” landfill or a “new” solid waste processing facility is one which did not exist on the date the Jackson bill became law (June 2, 1989). A landfill “exists”, for purposes of the Jackson Law, once a tentative decision to issue a permit has been made by the Department.
3. If a facility is an existing facility (one that existed on June 2, 1989), the Jackson Law does not apply to expansion of that facility. A plain reading of the statute as well as legislative history supports the position that existing facilities are forever excluded from applicability of the Jackson Law.
4. The Jackson Law applies to modification of a “new” landfill that involves “new construction”. However, the Jackson Law does not apply to a modification of a “new” landfill that does not involve “new construction”. In the Sanifill, Marshall County, case the Department took the position that whenever a “new” landfill attempted to modify its permit, the Jackson Law applied. The court of appeals rejected this contention, but it indicated that the Jackson Law would be triggered if the modification involves “new construction”. Thus, the Jackson Law should be applied to lateral expansions of fill areas of “new” landfills. Such modifications would clearly involve construction.

As amended in 1995, the Jackson Law requires approval from:

- (1) the county legislative body in which the proposed landfill is located, if such new construction is located in an unincorporated area;
- (2) both the county legislative body and the governing body of the municipality in which the proposed landfill is located, if such new construction is located in an incorporated area; or
- (3) both the county legislative body of the county in which such proposed landfill is located and the governing body of any municipality which is located within one (1) mile of such proposed landfill.



These amendments had the effect of making the law apply to the then pending permit application of Profill.

Profill challenged the application of the amended Jackson Law on a number of constitutional grounds. They lost the war but the court did find one provision of the Jackson Law to be unconstitutional. As written, the Jackson Law did not apply to permits being sought by a local government. This did make sense if it is simply construed to mean that a county or city does not have to give itself approval. But the court was looking at it from the standpoint of say a city getting permission from a county, or one county seeking a permit in another county. In any event, the court ruled that this provision discriminated against private landfills. However, the court then applied the doctrine of elision to remove this provision from the law. So from now on, both public and private permit applicants must get the approval required under the Jackson Law if the city and /or county has opted into the law in the first place.

### **REGIONAL APPROVAL**

Regional approval is not connected to the Jackson Law and should be viewed as an entirely separate requirement. The major difference is that our permitting process is not stopped while the applicant is getting regional approval but it is stopped while they are seeking approval under the Jackson Law. Pursuant to T.C.A. §68-211-814 (b)(1)(d), after a region's plan has been approved, we cannot issue a final permit until the region has approved the application but we can proceed up to that point.

### **ZONING**

Local zoning requirements do not stop our permitting process. We should; however, inform applicants that they must comply with local zoning.

**APPENDIX B:**  
**FORM LETTERS**

Application Form Letter..... 35

Final Permit-By-Rule Authorization Letter ..... 36



**State of Tennessee**  
**DEPARTMENT OF ENVIRONMENT AND CONSERVATION**  
**Division of Solid Waste Management**  
**5th Floor, L & C Tower**  
**401 Church Street**  
**Nashville, Tennessee 37243 - 1535**

DATE :

TO : Persons proposing to own or operate Solid Waste  
Processing Facilities

SUBJECT: **Permit-By-Rule Application**

Attached to this memo is a general instruction package for your proposed solid waste processing facility to be registered under this classification. Complete the attached notification form, then locate the facility on a U.S.G.S. or a topographic map. Provide a brief narrative explaining how the operating standards contained in the regulations will be met. These operating conditions are attached for your response. Rules effective as of July 10, 1993 require solid waste processing facilities with storage capacity of 1000 cubic yards or greater to file financial assurance with the Commissioner. Therefore, you are required to enclose a sketch of the facility showing storage capacity for solid waste.

An application fee of One Thousand (\$1,000) is required for filing. Make check payable to Treasurer, State of Tennessee; and NOTE THE NAME OF YOUR FACILITY. SEND FEE TO:

State of Tennessee  
Department of Environment and Conservation  
Division of Fiscal Services – Fee Section - SWM  
401 Church Street 7<sup>th</sup> Floor Annex  
Nashville, TN 37243

This fee schedule applies to processing facilities only (e.g. not convenience centers, tire storage, transfer stations or coal ash facilities)

Once requirements are met and your facility is permitted, an annual maintenance fee of Two Thousand (\$2,000) Dollars is required for those facilities that are required to pay an application fee. At the end of each year, the fee may be refunded if documentary proof is submitted to the Waste Activity Audit Section showing that at least 75% of the wastes were recycled.



**State of Tennessee**  
**DEPARTMENT OF ENVIRONMENT AND CONSERVATION**  
**Division of Solid Waste Management**  
**5th Floor, L & C Tower**  
**401 Church Street**  
**Nashville, Tennessee 37243 - 1535**  
**615-532-0780**

**(1)**

**(2)**

RE: Permit-by-Rule for a **(3) (4)**

Dear **(5)**:

This letter will serve as official notice that the Department of Environment and Conservation, Division of Solid Waste Management has approved your Permit-by-Rule notification submitted under Rule 1200-1-7-.02(1)(c)2 of Tennessee's Solid Waste Processing and Disposal Regulations. Your facility shall be deemed to have a Permit-by-Rule only if the conditions on the attached document are met. Compliance with these conditions is required by Rule 1200-1-7-.02(1)(c)1.

The permit number for this facility is **(6)**. This number should be used on all reports and correspondence submitted to the Department or Division regarding this facility.

Sincerely,

Mike Apple, Director  
Division of Solid Waste Management

JMA/DBM/mjs

PER12

Attachment

cc: **(7)**

APPENDIX C:  
APPLICATION FORMS

Convenience Center Notification Package – General Instructions ..... 41

Permit-By-Rule Notification ..... 38

    General Instructions ..... 40

    Specific Instructions ..... 39

Processing Facility Financial Assurance Worksheet ..... 42

**SOLID WASTE PERMIT BY RULE NOTIFICATION**  
Tennessee Department of Environment and Conservation  
Division of Solid Waste Management



1. a. Facility's full, legal name		Official use only	
b. Mailing address		City	State
2. a. Physical location or address of facility		Zip Code	
b. Latitude (degrees, minutes, and seconds)		Longitude (degrees, minutes, and seconds)	
3. Responsible official's name		Phone number with area code (       )	
4. Manager's or Operator's name		Phone number with area code (       )	
5. a. Landowner's name		Phone number with area code (       )	
b. Mailing address		City	State
6. a. Zoning authority's name		Current zoning status	Phone number with area code (       )
b. Mailing address		City	State
7. a. Type(s) of activity:		Zip Code	
<input type="checkbox"/> Mulching <input type="checkbox"/> Recycle Center <input type="checkbox"/> Tire Processor <input type="checkbox"/> Incineration <input type="checkbox"/> Transfer Station <input type="checkbox"/> Baling <input type="checkbox"/> Tub Grinder <input type="checkbox"/> Composting <input type="checkbox"/> Soil Remediation <input type="checkbox"/> Convenience Center <input type="checkbox"/> Waste Food Processor <input type="checkbox"/> Other _____			
b. Description of activities			
8. Type(s) of waste handled or processed:			
<input type="checkbox"/> Food <input type="checkbox"/> Tires <input type="checkbox"/> Commercial <input type="checkbox"/> Soil <input type="checkbox"/> Wood <input type="checkbox"/> Medical <input type="checkbox"/> Yard Waste <input type="checkbox"/> Other _____			
9. Amount of waste handled/processed/stored:			
Weight _____ tons/day		Volume _____ cubic yards/day	
Storage Capacity _____ cubic yards			
10. I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information.			
Date _____		Signature of Responsible Official _____	
		Official Title _____	
		Signature of Notary _____	
(Notary Seal)		Date Commission Expires _____	

**SPECIFIC INSTRUCTIONS FOR COMPLETING SOLID WASTE  
PERMIT-BY-RULE NOTIFICATION**

Complete this form for each facility that is processing and/or disposing of solid waste in Tennessee. If multiple facilities exist or are planned, describe each facility and its wastes on a separate form. **Submit completed documents to the Environmental Assistance Center where the facility will be located (Appendix D).**

Each existing facility must submit this form along with the required information [1200-1-7-.02(1)(c)2.] within ninety (90) days after the effective date of this rulemaking. Facilities beginning operation after the effective date of this rulemaking must submit this form along with the required information [1200-1-7-.02(1)(c)2.] at least thirty (30) days before beginning operation.

- Line 1 a. **Facility's full, legal name** - The applicant's full, legal name for this site to distinguish it from any other site the applicant or organization may own or operate in Tennessee. **Identification Number** - leave blank for Division usage.
- b. **Mailing address** - Give a complete mailing address for applicant or organization.
- Line 2 a. **Physical location or address of facility** - Information which will aid the Division in going to the site/facility. **Do not** give a Post Office Box Number.
- b. Supply the **latitude** and **longitude** of the site with the precision of degrees, minutes and seconds. Latitude and longitude may be found by using a U. S. Geological Survey quadrangle map.
- Line 3 **Responsible official's name** - The name and phone number of the person who the Division may contact for further information about the contents of this form.
- Line 4 **Manager's or Operator's name** - The name and phone number of the manager or person who is responsible for the direction of activities at the site/facility.
- Line 5 a. **Landowner's name** - The person(s) or organization name(s) and phone number(s) of the immediate owner(s) of the property [attached letter from landowner(s) as required by Rule 1200-1-7-.02(2)(d)1.(iv)].
- b. **Mailing address** - A complete mailing address for landowner.
- Line 6 a. **Zoning authority's name** - The name and phone number of the zoning authority plus the current zoning status of the property.
- b. **Mailing address** - A complete mailing address for the zoning authority.
- Line 7 a. **Type(s) of activity** - Check the appropriate type(s) of activity.
- b. **Description of activities** - Unless this is a landfill, enter a brief narrative description of how the solid waste will be handled and processed from the time it enters the facility until it leaves the facility.
- Line 8 **Type(s) of waste handled or processed** - Check the type(s) of waste to be handled at the facility. If the waste type is not listed, check "other" and briefly describe the source or characteristics of the solid waste.
- Line 9 **Amount of waste handled/processed/stored** - Provide an estimate of the daily weight in tons/day and/or volume in cubic yards/day that will be handled at the facility. Indicate the maximum amount of waste that can be stored in cubic yards.
- Line 10 **Certification** - After all documents have been compiled for submission to the Division, the manager or owner responsible for the site must sign, date and give title. This signature must be notarized. **Division of Solid Waste Management**

## **GENERAL INSTRUCTIONS FOR COMPLETING NOTIFICATION PACKAGE**

1. Read the instructions on the back of the “Solid Waste Permit-By-Rule Notification”, then complete all applicable sections. Do not use “Ditto Marks” or “Same” in filling in the spaces.
2. A U.S. Geological Survey (U.S.G.S.) 7.5 minute topographic map indicating the location of the facilities is to be included. Use this map to determine latitude and longitude information required on the notification form.
3. Attach a scaled drawing of the layout that shows the flow of wastes through the facility and the location and sites of all processing and storage areas. Your solid waste storage area(s) on this layout must agree with the storage capacity on the financial assurance worksheet.
4. Fill out the “Processing Facility Financial Assurance Worksheet”. This will be used to determine what amount of financial assurance, if any, you will be required to post for this facility.
5. Respond to the “Solid Waste Permit-By-Rule Conditions”. (Attached. I through XXIII if not a tire processor, and I through XXIII plus the addendum if a tire processor)
  - A. Don’t just copy the statement and then answer “Yes” or “No”, but rather elaborate on what will be done at your site to meet these requirements. For example, what steps have been taken to prevent fires and explosions?
  - B. Identify liquids going to a wastewater treatment facility permitted to receive such wastewater.
  - C. If this facility is proposed to handle special wastes, include a description of such wastes.
6. Three (3) copies (original and two copies) of the application and supporting documents must be submitted to the appropriate Division of Solid Waste Management Environmental Assistance Center (EAC) staff for review and approval. See enclosed map of Tennessee for the EAC that has jurisdiction over your proposed facility location. Indicate on your transmittal letter to the EAC manager that you have paid your application fee. If you have any questions, please call the EAC.
7. Send the \$1,000 application fee payable to Treasurer, State of Tennessee and note the name of your facility to: State of Tennessee, Department of Environment and Conservation, Division of Fiscal Services – Fee Section – SWM, 401 Church Street 7<sup>th</sup> Floor Annex, Nashville, TN 37243.



Division of Solid Waste Management

**GENERAL INSTRUCTIONS FOR COMPLETING NOTIFICATION PACKAGE  
FOR A CONVENIENCE CENTER**

1. Read the instructions on the back of the “Solid Waste Permit-By-Rule Notification”, then complete all applicable sections. Do not use “Ditto Marks” or “Same” in filling in the spaces.
2. Provide a USGS 7.5 minute topographical map that clearly identifies the location of all centers.
3. A scaled drawing of the convenience center layout is also required. This drawing should include the flow of wastes through the facility and the location and sites of all the processing and storage areas.
4. In responding to the 13 conditions (attached) that must be met for a permit to be issued, pay attention to the following:

Don’t just copy the statement and then answer “yes” or “no”, but rather elaborate on what will be done at your site to meet these requirements. For example, what steps have been taken to prevent fires and explosions?
5. After the above information is complete and signed in the appropriate places, submit the material to:

Permit Administration  
Division of Solid Waste Management  
5<sup>th</sup> Floor, L & C Tower  
401 Church Street  
Nashville, Tennessee 37243-1535
6. If there are questions concerning the application, contact permit administration at (615) 532-0780.

Facility Name \_\_\_\_\_

Permit No SWP \_\_\_\_\_

\_\_\_\_\_  
(For SWM office use only.)

PROCESSING FACILITY  
FINANCIAL ASSURANCE WORKSHEET

- 
- 
1. The maximum storage capacity for solid waste in cubic yards:  
Attach a sketch and/or calculation to support this number.  
\_\_\_\_\_ yd<sup>3</sup>
  2. The cost of transporting to a disposal site (The cost per yd<sup>3</sup> times the amount shown above.):  
\$ \_\_\_\_\_
  3. The cost (tipping fee, surcharges, etc.) to dispose of this volume of waste:  
\$ \_\_\_\_\_
  4. Contingency fee of 5%  
\$ \_\_\_\_\_
  5. Items 2+3+4= Total cost.  
\$ \_\_\_\_\_
  6. Adjustment for future inflation (5% for 3 years)  
(For SWM office use only) \$ \_\_\_\_\_
- Total Amount Due \$ \_\_\_\_\_

Signed \_\_\_\_\_

To the best of my knowledge, the above  
information is correct and complete.

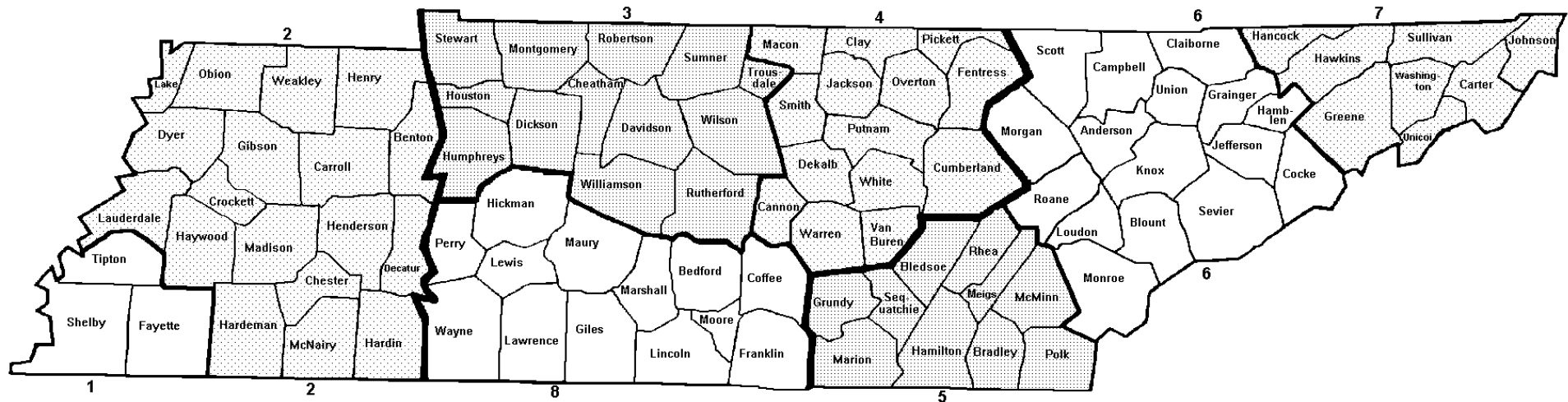
SWM5

## APPENDIX D:

# OTHER ATTACHMENTS

Solid Waste Management Contacts (Region Map) .....	44
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## Tennessee Department of Environment and Conservation Solid Waste Management Contacts



### CENTRAL OFFICE

Division of Solid Waste Management  
 401 Church Street  
 Fifth Floor, L & C Tower  
 Nashville, TN 37243-1535  
 Phone: 615-532-0780  
 Fax: 615-532-0886

### ENVIRONMENTAL ASSISTANCE CENTERS:

1. **Mark Thomas**  
 Division of Solid Waste Management  
 2510 Mt. Moriah, Suite E 645  
 Perimeter Park  
 Memphis, TN 38115-1520  
 Phone: 901-368-7939  
 Fax: 901-368-7979
2. **Randy Harris**  
 Division of Solid Waste Management  
 362 Carriage House Drive  
 Jackson, TN 38305-2222  
 Phone: 731-512-1300  
 Fax: 731-661-6283

3. **Al Majors**  
 Division of Solid Waste Management  
 Nashville Field Office  
 711 R. S. Gass Blvd.  
 Nashville, TN 37243  
 Phone: 615-687-7000  
 Fax: 615-687-7078

4. **Barry Atnip**  
 Division of Solid Waste Management  
 1221 South Willow Ave.  
 Cookeville, TN 38501  
 Phone: 931-432-4015  
 Fax: 931-432-6952

5. **Guy Moose**  
 Division of Solid Waste Management  
 Chattanooga State Office Building  
 Suite 550  
 540 McCallie Avenue  
 Chattanooga, TN 37402  
 Phone: 423-634-5745  
 Fax: 423-634-6389

6. **Larry Cook**  
 Division of Solid Waste Management  
 2700 Middlebrook Pike, Suite 220  
 Knoxville, TN 37921-5602  
 Phone: 865-594-6035  
 Fax: 865-594-6105

7. **Larry Gilliam**  
 Division of Solid Waste Management  
 2305 Silverdale Road  
 Johnson City, TN 37601-2162  
 Phone: 423-854-5400  
 Fax: 423-854-5401

8. **Dennis Lampley**  
 Division of Solid Waste Management  
 2484 Park Plus Drive  
 Columbia, TN 38401  
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 Fax: 931-380-3397